IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 21197 of 2007(W)

PETITIONER:

C.M.BALAKRISHANAN NAMBIAR,
S/O.KUHIRAMAN NAMBIAR
PRESIDENT, SREE MATTANNUR MAHADEVA KSHETHRAM.
MATTANNUR, KANNUR DISTRICT.

BY ADV. SRI.T.P.KELU NAMBIAR (SR.)
SRI.M.SASINDRAN

RESPONDENTS:
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1. THE ASSISTANT COMMISSIONER
HR & CE, THALASSERY.

2. THE DEPUTY COMMISSIONER, HR & CE,
KOZHIKODE.

3. THE COMMISSIONER, HR & CE,
KOZHIKODE.

4. KAIPACHERY CHANDRAN,
PRAJEESH NIVAS,
PAYYANPARAMBIL, MARUTHAYI,
PORARA POST,KANNUR DISTRICT.

5. M.P.BHASKARAN,
S/O. GOPALAN, SREEKOVIL,
PERIYACHOOR, PORARA POST, KANNUR DISTRICT.

BY GOVERNMENT PLEADER SRI.SANDESH RAJA FOR R1 TO R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & ANTONY DOMINIC, JJ.
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W.P(C). NO. 21197 OF 2007
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Dated this the 10th day of July, 2007

J U D G M E N T

Radhakrishnan, J.

This writ petition has been preferred seeking a writ of certiorari to quash Exts. P2 and P4 notices issued by the Assistant Commissioner and to declare that the respondents 1 and 2 have no power to make a declaration that a private temple is a public temple.

2. Senior counsel appearing for the petitioner brought to our knowledge a Division Bench judgment of this court in **K.V.Gopinathan and Others v. Kannankav Devasom (2004 (2)KAJ 552 (Ker-DB)** and submitted that only the Deputy Commissioner has got power to decide such questions.

3. Learned counsel relies on the notices received from the Assistant Commissioner and submitted that the notices are illegal

since Assistant Commissioner has no jurisdiction to issue such notices. This court has already declared that only Deputy Commissioner can decide such issues and not the Assistant Commissioner. Learned Government Pleader submitted that the Assistant Commissioner was only directed to hold an enquiry and orders would be passed only by the Deputy Commissioner.

4. Under the above mentioned circumstances, we are inclined to dispose of this petition holding that the issue can be decided only by the Deputy Commissioner and not by the Assistant Commissioner. Learned counsel for the petitioner raised a further complaint that petitioner has not been served with the copy of the complaint submitted by the respondents 4 and 5 before the Government. Learned Government Pleader submitted that the copy of the complaint would be provided to the petitioner forthwith. Since we have ordered that only Deputy Commissioner has the power to decide the issue, we find no reason to interfere

with Exts.P2 and P4 notices issued for conducting an enquiry. We make it clear that we have not expressed any opinion on the merits of the case.

Writ petition is disposed of as above.

K.S.RADHAKRISHNAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp